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8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-305

13 **ANNE MARIE GATTEN**
523 Meadowvale Drive
14 Orlando, Florida 32825

**DEFAULT DECISION
AND ORDER**

15 Registered Nurse License No. 633770

[Gov. Code, §11520]

16 Respondent.
17

18 **FINDINGS OF FACT**

19 1. On or about June 25, 2007, Complainant Ruth Ann Terry, M.P.H., R.N., in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs, filed Accusation No. 2007-305 against Anne Marie Gatten ("Respondent")
22 before the Board of Registered Nursing.

23 2. On or about March 4, 2004, the Board of Registered Nursing ("Board")
24 issued Registered Nurse License No. 633770 to Respondent. The registered nurse license will
25 expire on March 31, 2008, unless renewed.

26 3. On or about July 5, 2007, Kasey P. Arismende, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
28 2007-305, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
2 which was and is 523 Meadowvale Drive, Orlando, Florida 32825. A copy of the Accusation,
3 the related documents, and Declaration of Service are attached as **exhibit A**, and are incorporated
4 herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. On or about July 30, 2007, the aforementioned documents were returned
8 by the U.S. Postal Service marked "Unclaimed." A copy of the envelope returned by the post
9 office is attached hereto as **exhibit B**, and is incorporated herein by reference.

10 6. Business and Professions Code section 118 states, in pertinent part:

11 (b) The suspension, expiration, or forfeiture by operation of law of a
12 license issued by a board in the department, or its suspension, forfeiture, or
13 cancellation by order of the board or by order of a court of law, or its surrender
14 without the written consent of the board, shall not, during any period in which it
15 may be renewed, restored, reissued, or reinstated, deprive the board of its
16 authority to institute or continue a disciplinary proceeding against the licensee
17 upon any ground provided by law or to enter an order suspending or revoking the
18 license or otherwise taking disciplinary action against the license on any such
19 ground.

16 7. Government Code section 11506 states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts of
19 the accusation not expressly admitted. Failure to file a notice of defense shall constitute a
20 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless
21 grant a hearing.

22 8. Respondent failed to file a Notice of Defense within 15 days after service
23 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
24 Accusation No. 2007-305.

25 9. California Government Code section 11520 states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense or to appear at
27 the hearing, the agency may take action based upon the respondent's express
28 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

29 10. Pursuant to its authority under Government Code section 11520, the Board
finds Respondent is in default. The Board will take action without further hearing and, based on

1 Respondent's express admissions by way of default and the evidence before it, contained in
2 **exhibits A and B**, finds that the allegations in Accusation No. 2007-305 are true.

3 11. The total costs for investigation and enforcement are \$667.75 as of
4 December 5, 2007.

5 **DETERMINATION OF ISSUES**

6 1. Based on the foregoing findings of fact, Respondent Ann Marie Gatten has
7 subjected her Registered Nurse License No. 633770 to discipline.

8 2. A copy of the Accusation and the related documents and Declaration of
9 Service are attached.

10 3. The agency has jurisdiction to adjudicate this case by default.

11 4. The Board of Registered Nursing is authorized to revoke Respondent's
12 registered nurse license based upon violations of Business and Professions Code sections 2761,
13 subdivision (a)(4) (out-of-state discipline); 2762, subdivision (a) (obtain or possess controlled
14 substances in violation of law and self-administer controlled substances), subdivision (b) (use
15 controlled substances to an extent or in a manner dangerous or injurious to herself), and
16 subdivision (e) (falsify patient and/or hospital records regarding controlled substances), as
17 alleged in Accusation No. 2007-305.

18 **ORDER**

19 IT IS SO ORDERED that Registered Nurse License No. 633770, heretofore
20 issued to Respondent Ann Marie Gatten is revoked.

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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may
2 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
3 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
4 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
5 statute.

6 This Decision shall become effective on April 21, 2008.

7 It is so ORDERED March 19, 2008

8 *LaTranene W Tate*

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10 FOR THE BOARD OF REGISTERED NURSING
11 DEPARTMENT OF CONSUMER AFFAIRS
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25 Attachments:

26 Exhibit A: Accusation No.2007-305, Related Documents, and Declaration of Service
27 Exhibit B: Copy of Envelope Returned by Post Office

28 DOJ docket number:03579110SA2006101695
10415055.wpd

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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-305

13 ANNE MARIE GATTEN
523 Meadowvale Drive
14 Orlando, Florida 32825

ACCUSATION

15 Registered Nurse License No. 633770

16 Respondent.
17

18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:
19

PARTIES

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

Registered Nurse License

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23 2. On or about March 4, 2004, the Board of Registered Nursing issued
24 Registered Nurse License Number 633770 to Anne Marie Gatten ("Respondent"). The registered
25 nurse license was in full force and effect at all times relevant to the charges brought herein and
26 will expire on March 31, 2008, unless renewed.

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1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
2 unintelligible entries in any hospital, patient, or other record pertaining to the
substances described in subdivision (a) of this section.

3 7. Code section 4060 states, in pertinent part:

4 No person shall possess any controlled substances, except that furnished to
5 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor...

6 8. Health and Safety Code section 11173, subdivision (a) provides that no
7 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
8 the administration of or prescription for controlled substances, (1) by fraud, deceit,
9 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

10 COST RECOVERY

11 9. Code section 125.3 provides, in pertinent part, that the Board may request
12 the administrative law judge to direct a licensee found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 10. DRUGS

16 "Demerol," a brand of meperidine hydrochloride, is a Schedule II
17 controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(17),
18 and a dangerous drug within the meaning of Code section 4022, in that it requires a prescription
19 under federal law.

20 "Dilaudid," a brand of hydromorphone, is a Schedule II controlled
21 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K), and a
22 dangerous drug within the meaning of Code section 4022, in that it requires a prescription under
23 federal law.

24 "Morphine" is a Schedule II controlled substance as designated by Health
25 and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the meaning
26 of Code section 4022, in that it requires a prescription under federal law.

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1 b. Respondent possessed Dilaudid, Demerol, and Morphine, all controlled
2 substances, in violation of Code section 4060.

3 c. Respondent self-administered Morphine, a controlled substance without a
4 lawful prescription.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Used a Controlled Substance to an Extent or in a Manner Dangerous**
7 **or Injurious to Herself)**

8 13. Respondent is subject to discipline under Code section 2761, subdivision
9 (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (b),
10 in that on or about October 30, 2005, while employed as a registered nurse at Paradise Valley
11 Hospital, Respondent used Morphine, a controlled substance, to an extent or in a manner
12 dangerous or injurious to herself. In fact, on that date, Respondent sought the help of her
13 manager with what Respondent termed "a drug problem" and subsequently tested positive for
14 Morphine after a "for-cause" urine drug screening.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Falsify Patient and/or Hospital Records)**

17 14. Respondent is subject to disciplinary action under Code section 2761,
18 subdivision (a), for unprofessional conduct, as defined by Code section 2762, subdivision (e), in
19 that Respondent falsified or made grossly incorrect, inconsistent, or unintelligible entries in
20 hospital and patient records, as follows:

21 **Banner Desert Medical Center**

22 **Patient #1179629**

23 a. In or about August 2005, Respondent withdrew 3 separate 2 mg. injectable
24 doses of Dilaudid for this patient when there was no physician's order. Respondent failed to
25 chart the wastage or otherwise account for the disposition of the drug in any patient or hospital
26 record.

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Patient #1307276

b. In or about August 2005, Respondent withdrew 2 separate 2 mg. injectable doses of Dilaudid for this patient when there was no physician's order. Respondent failed to chart the wastage or otherwise account for the disposition of the drug in any patient or hospital record.

c. In or about August 2005, Respondent withdrew 10 mg. of Morphine for this patient, documented 5 mg. as administered, but failed to chart the wastage or otherwise account for the disposition of the remaining 5 mg. of Morphine in any patient or hospital record.

Patient #1305698

d. In or about August 2005, Respondent withdrew a 2 mg. injectable dose of Dilaudid for this patient; however, Respondent failed to chart the administration or wastage or otherwise account for the disposition of the drug in any patient or hospital record.

e. In or about August 2005, Respondent withdrew 10 mg. of Morphine for this patient; however, Respondent failed to chart the administration or wastage or otherwise account for the disposition of the Morphine in any patient or hospital record.

Patient #557049

f. In or about August 2005, Respondent withdrew a 2 mg. injectable dose of Dilaudid for this patient when there was no physician's order. Further, the patient had already been discharged. Respondent failed to chart the wastage or otherwise account for the disposition of the drug in any patient or hospital record.

g. In or about August 2005, Respondent withdrew 2 separate 25 mg. doses of Demerol and one 50 mg. dose of Demerol for this patient; however, Respondent failed to chart the administration or wastage or otherwise account for the disposition of the Demerol in any patient or hospital record.

Patient #1304981

h. In or about August 2005, Respondent withdrew 4 separate 2 mg. injectable doses Dilaudid for this patient when there was no physician's order. Further, the patient had

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1 already been discharged. Respondent failed to chart the wastage or otherwise account for the
2 disposition of the drug in any patient or hospital record.

3 **Patient #1307934**

4 i. In or about August 2005, Respondent withdrew 2 separate 2 mg.
5 injectable doses of Dilaudid for this patient. Respondent charted the administration of 0.2 mg.
6 but failed to account for the disposition of the remaining 3.8 mg. of Dilaudid in any patient or
7 hospital record.

8 j. In or about August 2005, Respondent withdrew 10 mg. of Morphine for
9 this patient. Respondent charted the administration of 5 mg.; however, Respondent failed to
10 chart the wastage or otherwise account for the disposition of the remaining 5 mg. of Morphine in
11 any patient or hospital record.

12 **Patient #1270214**

13 k. In or about August 2005, Respondent withdrew 2 separate 2 mg. injectable
14 doses of Dilaudid for this patient; however, Respondent failed to chart the wastage or otherwise
15 account for the disposition of the drug in any patient or hospital record.

16 **Patient #917942**

17 l. In or about August 2005, Respondent withdrew 5 separate 2 mg. injectable
18 doses of Dilaudid for this patient when there was no physician's order. Respondent failed to
19 chart the wastage or otherwise account for the disposition of the drug in any patient or hospital
20 record.

21 **Patient #627190**

22 m. In or about August 2005, Respondent withdrew 3 separate 2 mg. injectable
23 doses of Dilaudid for this patient. Respondent charted the administration of 2 mg. of Dilaudid
24 but failed to chart the wastage or otherwise account for the disposition of the remaining 6 mg. of
25 Dilaudid in any patient or hospital record.

26 **Patient #887747**

27 n. In or about August 2005, Respondent withdrew 2 separate 2 mg. injectable
28 doses of Dilaudid for this patient; however, Respondent failed to chart the administration or

1 wastage or otherwise account for the disposition of the drug in any patient or hospital record.

2 **Paradise Valley Hospital**

3 **Patient J.G.**

4 o. On October 25, 2005, at 0805 hours, Respondent withdrew an injectable
5 2 mg. dose of Dilaudid from the AcuDose system for this patient when there was no physician's
6 order. Respondent failed to chart the wastage or otherwise account for the disposition of the drug
7 in any patient or hospital record.

8 **Patient B.S.**

9 p. On October 25, 2005, at 0950 hours, Respondent withdrew an injectable
10 2 mg. dose Dilaudid from the AcuDose system for this patient when there was no physician's
11 order. Respondent failed to chart the wastage or otherwise account for the disposition of the drug
12 in any patient or hospital record.

13 **Patient C.F.**

14 q. On October 25, 2005, at 1935 hours, Respondent withdrew an injectable
15 2 mg. dose of Dilaudid from the AcuDose system for this patient when there was no physician's
16 order. Respondent failed to chart the wastage or otherwise account for the disposition of the drug
17 in any patient or hospital record.

18 **Patient L.E.**

19 r. On October 26, 2005, at 1732 hours, Respondent withdrew an injectable
20 10 mg. dose of Morphine from the AcuDose system for this patient when there was no
21 physician's order. Further, the patient had been discharged at 0930 hours. Respondent failed to
22 chart the wastage or otherwise account for the disposition of the drug in any patient or hospital
23 record.

24 **Patient C.L.**

25 s. On October 30, 2005, Respondent withdrew unknown quantities of
26 Morphine and Dilaudid from the AcuDose system for this patient when there was no physician's
27 order. Respondent failed to chart the wastage or otherwise account for the disposition of the
28 drugs in any patient or hospital record.

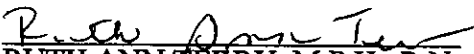
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 633770, issued to Anne Marie Gatten;
2. Ordering Anne Marie Gatten to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 6-25-07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant